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DIVISION OF REVENUE
TECHNICAL INFORMATION MEMORANDUM 90-2

August 22, 1990

SUBJECT: DELAWARE NET OPERATING LOSS CARRYBACK LIMITATION

Chapter 263, Laws 1990 (H.B. 730) amended Section 1903(a) of Title 30 of the Delaware Code, by adding a new sub-paragraph (9), that limits, for net operating losses sustained after tax year June 30, 1990, a Federal net operating loss carryback to the lesser of, the entire net operating loss as computed under Section 172 of the Internal Revenue Code or, an amount not to exceed \$30,000.00. Any unused portion of the same net operating loss may be carried forward until the net operating loss is absorbed. If a Federal election is made under Section 172(b)(3)(C) to forego the entire loss carryback period, the Federal net operating loss, without limitation, is carried forward to the succeeding taxable years.

Every taxpayer claiming a net operating loss deduction under Sub-Paragraph (9) of Section 1903(a) of Title 30 of the Delaware Code for any taxable year after June 30, 1990, must file and attach, in addition to any other required attachments, to the original or amended Delaware Corporate Income Tax Return, for such year, a schedule setting forth the amount of the net operating loss deduction claimed for both Federal and State purposes. The schedule should detail separate amounts of the net operating loss deduction, if more than one net operating loss carryover is claimed as a deduction. A short taxable year is treated the same as a full year in computing carryback and carryforward periods.

In the case of the filing of a Federal consolidated corporate income tax return, each member of the consolidated group required to file a Delaware Corporate Income Tax Return, will be subject to the above net operating loss deduction requirements.

Robert W. Chastant
Director of Revenue